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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

TR

**Office Action Summary**

Application No.

09/321,939

Applicant(s)

CARR, WAYNE J.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 10, 15, 18, 19, and 21-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Matthews, III et al. (U.S. Patent No. 6,025,837).

Referring to claim 10, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

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Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses tuning to an audio/video program (Column 8, Lines 24-31).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Referring to claim 15, see rejection of claim 10. Also note the device in Figure 4.

Referring to claim 18, Matthews teaches that the first and second devices may include different parts of a software routine (Column 1, Lines 55-61).

Referring to claim 19, see rejection of claim 10. Also see Column 7, Lines 9-31 for combining announcement information.

Referring to claim 21, see rejection of claim 10. Also see Figure 2 and Column 7, Lines 23-31 for identifying a second location (URL) where one or more announcements associated with the tuned audio/video program are based on an indicator.

Referring to claim 22, Matthews discloses receiving audio/video programs including television content associated with a plurality of television channels (Column 5, Lines 44-49 and Figure 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-17, 20, 23, 27 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 16, Matthews teaches all of the limitations in claim 15, but fails to teach the additional limitation of the enhancement data adheres to the Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary

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skill in the art to modify the message delivery method for an interactive entertainment system, as taught by Matthews, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Claim 17 corresponds to claim 16, with the additional limitation of the announcements being expected at an announcement IP address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system, as taught by Matthews, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 16.

Referring to claim 20, which correspond to claim 19, see rejection of claim 16.

Referring to claim 23, which correspond to claim 21, see rejection of claim 16.

Referring to claims 27 and 29-31, which corresponds to claims 10, 15, 19, and 21, respectively, see rejection of claim 17.

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3. Claims 1, 3, and 5-6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Freeman et al. (U.S. Patent No. 6,181,334).

Referring to claim 1, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7,

Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Matthews also discloses processing the announcement of the currently tuned television channel (see browser 106 in user interface unit 90 of Figure 4 and Column 8, Lines 62-66).

Matthews fails to teach multiplexing the television content and the enhancement data before transmitting the data over a network. Freeman teaches multiplexing digital signals (various video and data signals) over an interactive cable television system (Column 5, Lines 49-52 and Lines 65-67 and Column 6, Lines 1-2, 8-24, 31-36, and 45-52 and Column 7, Lines 1-19, 23-27). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the multiplexer, as taught by Freeman, for the purpose of maximizing the number of simultaneously transmittable signals (Column 5, Lines 56-58).

Claim 3 corresponds to claim 1, with the additional limitation of the one or more special indications are received on a separate delivery mechanism. Matthews teaches this limitation in Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 5 corresponds to claim 1, with the additional limitation of receiving enhancement data over a separate communications link. Matthews teaches this



limitation in Figure 3 by showing a second network where enhanced content can also be sent from a separate ISP (also see Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 6, corresponds to claim 1, with the additional limitation of receiving the announcements at locations different from the first location. Matthews discloses this limitation in Column 4, Lines 30-33 (distributing to multiple subscribers).

Referring to claim 11, see rejection of claim 1.

Claim 12 corresponds to claim 11, with the additional limitation of multicasting the enhancement data and predetermined indications to a plurality of receivers. The limitation is taught in Column 7, Lines 9-13.

4. Claims 2, 4, 7, 13-14, 24-25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Freeman et al. (U.S. Patent No. 6,181,334) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 2, Matthews and Freeman teach all the limitations in claim 1, but fail to teach processing announcements according to the Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television

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Enhancement Forum Specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Referring to claim 4, Matthews and Freeman teach all of the limitations in claim 1, but fail to teach receiving announcements on a data-only transport stream program. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Referring to claim 7, Matthews and Freeman teach all of the limitations in claim 1, but fail to teach that receiving announcements at an Internet protocol address and port different from an expected announcement address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting

method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Referring to claim 13, Matthews and Freeman teach all of the limitations in claim 11, but fail to teach that the enhancement data adheres to an Advanced Television Enhancement Forum Specification. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network (Page 2, see "Using Enhanced TV"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, the Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 14 corresponds to claim 13, with the additional limitation of a first location including an IP address and port at which announcements are expected to arrive. This limitation is taught and proper motivation is provided in the rejection of claim 2.

Claim 24 corresponds to claim 1, with the additional limitation of a first location containing a first network address and port, and that announcements at a second network address and port are different from the first. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability

(Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 25 corresponds to claim 1, with the additional limitation of receiving one or more special indications at the first location (see Figure 3 of Matthews) wherein the first location has a network address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers"). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the message delivery method for an interactive entertainment system utilizing a multiplexing technique, as taught by Matthews and Freeman, using the announcement broadcasting method, as taught by, Advanced Television Enhancement Forum Specification, for the same purpose as disclosed in the rejection of claim 2.

Claim 28 corresponds to claim 11, see rejection of claim 25.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Smith et al. (U.S. Patent No. 5,559,625).

Referring to claim 8, Matthews discloses a receiver adapted to tune to an audio/video portion over a transport medium (Column 8, Lines 21-31 and Figure 4). Matthews also discloses a device adapted to receive announcement data associated with the tuned audio/video content directed to a first location (Column 8, Lines 31-35), the special announcement indicating availability of the announcement data associated with the tuned audio/video program (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24). Matthews teaches responding to a special announcement, but fails to teach a controller adapted to redirect the announcement data to a second location. Smith teaches re-directing traffic in a television network (Column 1, Lines 27-30) from a second location to a first location (Column 8, Lines 62-67 and Column 9, Lines 1-9). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the method of re-directing data in a television network, as taught by Smith, for the purpose of increasing the amount of re-use of information transmission wavelengths within a network, while not incurring the disadvantage of multipath effects which can otherwise arise in wavelength re-use (Column 1, Lines 45-49), and provide a failure protection means for ensuring successful transmission of television data over a network (Column 8, Lines 62-67 and Column 9, Lines 1-5).

6. Claims 9 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Smith et al. (U.S. Patent No.

5,559,625) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 9, Matthews and Smith teach all the limitations in claim 8, with the additional limitation of a second location including an address and port for receiving announcements according to an Advanced Television Enhancement Forum Specification. These additional limitations are taught in the rejection of claims 2 and 7.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Arsenault (U.S. Patent No. 6,310,661) discloses a method of broadcasting controlling data streams and apparatus for receiving the same.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

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June 27, 2002



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